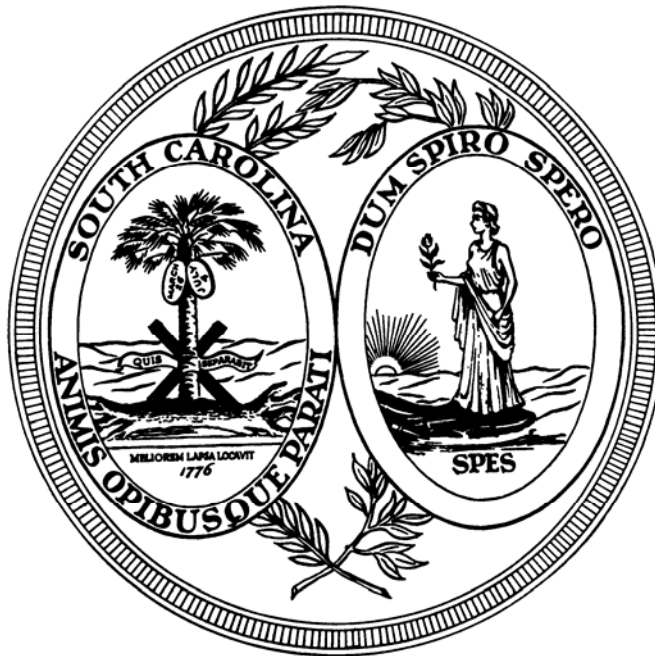


STATE LEASING PROCEDURES

2005



Budget and Control Board

General Services Division

Real Property Services

Columbia, South Carolina

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FOREWORD

This publication is produced by the leasing unit of the Real Property section (previously known as “State Building and Property Services” and previous to that “Property Management”) of the General Services Division of the South Carolina State Budget and Control Board. It is intended to assist state agencies in meeting their leasing needs for real property space by outlining processes which meet the requirements of code and regulation and are acceptable to the leasing markets throughout the state.

The leasing unit of General Services assists state agencies in leasing real property. Most of its resources are used for the management, investigation, and negotiation of commercial (non-state owned or private property) leases on behalf of agencies, but also assists in the leasing of General Services’ state-owned property by marketing space, maintaining records and invoicing of agencies.

The objectives of the leasing unit are:

- To secure leased space that closely matches the needs of the agency
- To keep state lease rates below market averages
- To negotiate rent reductions and other concessions
- To minimize protests of state lease procurements
- To implement statewide standards (lease provisions and space allocation)

Our leasing staff is active in seeking and contracting for real property on behalf of state agencies. In each state fiscal year, we successfully execute approximately 150 new leases, renewals or amendments. Of these, a half dozen usually require presentations before the Budget and Control Board and the Joint Bond Review Committee.

We are committed to assisting state agencies whenever they have leasing needs. Please feel free to contact any of our leasing staff at 803 737-1520 (facsimile 803-737-0689) or at the address below.

General Services Division
Real Property Services
1201 Main Street, Suite 410
Columbia, South Carolina 29201

Rich Roberson, Assistant Director
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STATE LEASING PROCEDURES

2005

Budget and Control Board

General Services Division

Real Property Services

1201 Main Street, Suite 410, Columbia, South Carolina 29201

EXEMPTIONS

The following exemptions from the Budget and Control Board's lease procurement process ("State Leasing Procedures") have been granted. The Board's authority to exempt agencies emanates from SC Code Sections 1-11-55 and 1-11-56, and Regulation 19.447-1000. Please note that exemptions may be made for certain property types only and that an exemption from the process may not exempt reporting requirements. In reading the following, it is helpful to note that, upon their creation, leasing matters were governed by SC Code Sections 11-35-1590 and 11-35-1600 rather than 1-11-65. Sections 11-35-1590 and 11-35-1600 are superseded by Sections 1-11-55 and 1-11-56 and Section 1-11-65 is superseded by 1-11-57.

SOUTH CAROLINA CODE

JEDA Excerpt from § 41-43-90

"Notwithstanding any provision of law or regulation to the contrary, and in accordance with its own procurement procedures and regulations as approved by the Budget and Control Board, which must, at a minimum, incorporate the provisions of Sections 11-35-5210 through 11-35-5270, inclusive, acquire, purchase, hold, use improve, manage, lease, mortgage, pledge, sell, transfer, and dispose of any property, real, personal, or mixed, or any interest in any property, or revenues of the authority, including as security for notes, bonds, evidences of indebtedness, or other obligations of the authority. Except for the provisions of Sections 11-35-5210 through 11-35-5270, inclusive, in exercising the powers authorized in this chapter the authority is exempt from Title 11, Chapter 35. The authority has no power to pledge the credit and the taxing power of the State or any of its political subdivisions."

Exemptions Excerpt from § 11-35-710

"The board, upon the recommendation of the Division of General Services, may exempt governmental bodies from purchasing certain items through the respective chief procurement officer's area of responsibility. The board may exempt specific supplies or services from the purchasing procedures required in this section and for just cause by unanimous written decision limit or may withdraw exemptions provided for in this section. The following exemptions are granted in this chapter:"

- (12) (3) South Carolina State Ports Authority;
- (13) (4) Division of Public Railways of the Department of Commerce;
- (14) (5) South Carolina Public Service Authority;
- (15) South Carolina Research Authority;

BUDGET & CONTROL BOARD

December 9, 2003

Exempted **Clemson University** from the lease procurement procedures for the leasing out of the Information Technology Research Center (ITRC) to be located at the Clemson University International Center for Automotive Research in Greenville, South Carolina.

March 26, 2002

Exempted **State agencies** from the lease procurement process for commercial leases (non-state-owned property) with an annual rental amount of up to \$25,000 in a fiscal year (previously \$10,000).

March 5, 1996

Granted an exemption from the leasing procedures for the leasing of **Clemson University PSA** lands provided that the leasing be done in accordance with procedures to be approved by the General Services Division.

November 14, 1995

Increased the lease procurement exemption from \$10,000 to \$25,000 for **colleges and universities**.

June 27, 1990

Exempted **State agencies** from the lease procurement process for commercial leases (non-state-owned property) with an annual rental amount of up to \$10,000 in a fiscal year.

December 20, 1989

The following **State Development Board** procurements: all procurements paid from the Frankfurt, West Germany office for the use of that office; leases for office space in foreign countries; and all part-time international business consultants who represent the State of South Carolina in foreign countries.

July 18, 1989

Department of Transportation - interests in real property for highway right-of-way purposes. Exempted acquisitions by the Department of Highways and Public Transportation of real property or interest in real property to be utilized for highway right-of-way purposes from the requirements of Section 1-11-65, as amended.

July 15, 1986

Clemson University real estate transactions involving any real estate that is part of the Agriculture Experiment Stations or other lands deeded to Clemson University by the Federal government and held for agriculture and forestry research purposes from the requirements of the Board's surplus property disposal procedures, but did not exempt the transactions from the requirements of Code Section 1-11-65.

April 8, 1986

Research Authority exempted from provisions of Code Section 1-11-65.

October 22, 1985

The Board exempted the following governmental bodies from the real property leasing procedure requirements of Part II, Section 5 of the 1985-86 Appropriations Act in the leasing of the following types of real property:

- Department of Agriculture: State-owned farmers markets
- Highways and Public Transportation: lands for maintenance and construction purposes.
- Community Mental Health Centers (Department of Mental Health)
- Department of Corrections: farm lands
- Mental Retardation: farm lands
- Forestry Commission: forest lands
- PRT: State parks and recreation lands
- Wildlife Department: game management areas

In addition, the Board exempted **all governmental bodies** from the real property leasing procedure requirements of Part II, Section 5 of the 1985-86 Appropriations Act in the leasing of the following types of real property:

- State-owned student housing/dorm space;
- Parking spaces in State-owned garages or lots;
- State-owned lecture halls, theaters, coliseums, athletic areas, recreation areas and other areas for periods of less than seven days;
- Non-State-owned real property
 - (a) for less than 3 months in a single fiscal year, or
 - (b) for a total cost of less than \$5,000 in a single fiscal year;
- State-owned box or other seats

On the following page is a chart which lists the approval and reporting requirements of the above. [Note: Part II, Section 5 of the 1985-86 Appropriations Act was superseded by 1-11-65 which originally referred to all real property transactions. Code Section 1-11-65 was later superseded by 1-11-57.]

October 22, 1985

State Housing Authority exempted from provisions of Code Section 1-11-65.

September 12, 1985

State Ports Authority and **Public Service Authority (Santee Cooper)** exempted from provisions of Code Section 1-11-65.

GENERAL SERVICES

Disabilities and Special Needs Intermediate Care Facility - April 3, 1990

In the establishment of a community residence as an Intermediate Care Facility licensed and certified by the Department of Health and Environmental Control (DHEC) according to the state plan under the provisions of Title XIX of the Social Security Act Medical Assistance Program (Medicaid), DMR may lease real property owned by the provider such as a county Mental Retardation Board (created by SC Code 44-21-810). In this case, the lease rate must be approved by Health and Human Services Finance Commission (HHSFC) and is determined according to specifications in the state plan. This rate is determined by historical costs rather than competitive proposals or market rates. HHSFC conducts an annual audit on these costs and rates.

Approval and Reporting Requirements
from October 22, 1985 Board Action (Exemptions)

Governmental Body	Type of Real Property Involved in Leases	Leases Subject to Approval by General Services?	Annual Report to General Services Required?
1. All	State-owned student housing/dorm space	No	No
2. All	Parking Spaces in State-owned garages or lots	No	No
3. All	State-owned lecture halls, theaters, coliseums, athletic areas, recreation areas, and other areas for periods of less than 7 days	No	No
4. Agriculture Dept.	State-owned Farmers Markets	No	Yes* *(Must include listing of (a) tenants <u>leasing</u> space or improvements for one year or longer; and (b) tenants that have <u>occupied</u> the same space or improvements for one year or longer.)
5. All	Non-state-owned real property: (a) for less than 3 months in a single fiscal year; or (b) for a total cost of less than \$5,000 in a single fiscal year.	No	Yes
6. All	State-owned box or other seats	No	No

REGISTRATION OF PRINCIPALS

Private Property Owners and Leasing Agents

In most cases, the State uses a mailing list to advertise its property needs to property owners and leasing brokers. A mailing list of each county is maintained and these lists are used as the need arises. For a property owner or leasing broker to receive notification of an agency's need for property or space, he or she should first acknowledge the receipt and understanding of Regulation 19-447.1000 and to inform our office of those counties in which he or she is interested. A copy of this regulation is included with this booklet and a receipt and acknowledgment form has been created for this purpose. The form may be copied from this booklet or obtained by phoning the Real Property Services' office at (803) 737-1520.

State Agencies

Throughout the year, we receive numerous inquiries from staff at State agencies about leasing property. If the agency director wishes to name the agency staff that is authorized to make official requests to SBPS, he or she may register these staff. The director may name personnel who are authorized to request services (search for property) or enter into contracts (leases) on behalf of the agency. This may be done at any time with our office. In addition, the agency may authorize and register the names of those individuals responsible for certain aspects of a project at the time the project is initiated. See the request form for more detail.

RECOMMENDED COMMERCIAL LEASE PROCEDURE

PROCESS FOR AGENCY PROCUREMENT OF NON-STATE OWNED REAL PROPERTY

Authority: SC Code Sections 1-11-55 and 1-11-56, Regulation 19-447.1000

This document has been prepared to assist leasing staff and agencies in the lease procurement of non state owned real property. The leasing staff of Real Property Services will assist and guide the agency in the securing of leasehold interests in real property in order to meet its needs for office, warehouse, storage, housing, land or other property as required. Those concerned with the lease of state-owned property to others ("lease-outs") are referred to Regulation 19-447.1000 subsection B and the "lease-out" section of this publication.

There are five types of commercial (non-state owned property) leases:

- | | |
|-------------|-------------------|
| 1. Exempt | 3. Major |
| 2. Standard | 4. Lease/purchase |
| | 5. Other |

Generally, a competitive lease acquisition process is used for the acquisition of all but exempt leases. Real Property Services usually conducts its investigation by either a formal RFP (Request for Proposal) with sealed proposals or a solicitation (informal RFP) to determine the availability and suitability of potential properties and their respective proposed terms. If deemed appropriate, Real Property Services may utilize other methods of market investigation. All details of all proposals are considered confidential until the lease document is approved in writing by Real Property Services i.e. the details of one proposal are not to be discussed with other parties. After lease approval by General Services' Real Property Services, the details of the transaction are open to public examination.

The following will outline the typical procedure for the acquisition of each lease type. Although every eventuality will not be covered, deviations may be addressed on an individual basis. For additional information, the agency may wish to refer to Regulation 19-447.1000 or contact the leasing section of Real Property Services.

Part 1 - Exempt Leases

All commercial leases of less than \$25,000 (regardless of source of funds) in a fiscal year or for a term of less than 3 months are exempt from the Board's lease acquisition process. In addition, colleges and universities have been exempted by the Budget and Control Board for commercial leases of less than \$25,000. Other exemptions have been granted from time to time by the Budget and Control Board. Reporting requirements are usually not exempt. Once executed, a copy of the exempt lease is sent to the Leasing staff of General Services.

Part 2 - Standard Leases

1. Initiating Letter or Form The lease acquisition process begins with an agency letter to Real Property Services stating its need to procure lease space or property, the reasons for this need and requesting Real Property Services to investigate through its investigative and solicitation process the availability of suitable space, terms and conditions. A form, as approved by Real Property Services, may be used. The agency should state what agency approvals are needed (such as boards or commissions) to establish the project and if previously secured, the dates they were given. The funding source and date available should be included. The percentage of state appropriations should be stated.

In addition, the correspondence should give the reason(s) for the need and, if for office space, should give the total number of employees to be accommodated in the new space and, if other agency employees occupy the same

building, the total number of employees expected to be in the building. A clear distinction should be made between FTE's in place and approved versus those expected in the future.

The agency should also state its projected date of occupancy. If the agency is subject to the Commission on Higher Education (CHE), i.e. is a "CHE agency," the initiating letter or form to Real Property Services may be copied CHE so as to also request their approval of the concept/project. The acquisition process may proceed once all concept approvals are in place.

2. Meeting The agency and Real Property Services meet to discuss the competitive lease acquisition process and the agency's specific needs and conditions.

3. Tour of Present Facility If the new lease acquisition will replace space or property currently in use, this property is toured by Real Property Services in order to learn more about the agency's space needs, services provided to the facility, and the basis for the need for new space.

4. Space Planning and Allocation Standards The agency reviews its space needs according to current space allocation standards and prepares a "space allocation form" provided by Real Property Services. Although the number of FTE's is important, a more critical measure of office space need is the number of employees to be housed.

5. Specifications The agency drafts the specifications or "criteria for solicitation" with the use of a lease criteria form provided by Real Property Services. The property lease criteria must not be drafted in such a restrictive manner as to stifle competition or give an undue advantage to any one firm or person, but rather accurately outline the legitimate needs of the agency.

6. RFP or Solicitation Real Property Services reviews these documents (request letter, allocation standards, specifications or criteria) and, if in order, conducts an RFP or solicitation process.

On a case by case basis, Real Property Services will consider waiving the mail solicitation or RFP portion of the acquisition process in order to achieve agency expansion or consolidation in one location. If the location needs are general in nature, Real Property Services may conduct a limited investigation of the market. If the location needs are specific in nature, the agency will be asked to write an appropriate justification. This concept (the waiver of a full investigation) requires advance approval and for CHE agencies, must be approved by the Commission on Higher Education. A waiver of a full investigation does not waive other aspects or portions of the process.

Real Property Services performs the investigation or solicitation portion of the process as follows:

(a) The availability of state owned/controlled or leased property is first examined.

(b) If appropriate space is not available in the state inventory, commercial property is solicited from brokers, agents, owners or other interested parties through a solicitation or RFP process conducted by Real Property Services. Notification may be accomplished via a mailing list which is maintained for each market area or county in the state. Real Property Services' mailing list is comprised of all persons, developers, partnerships, companies, corporations or other parties which have expressed a desire to be on the list and have agreed to abide by Regulation 19-447.1000. Lists are maintained for each county or market area. Alternatively or additionally, notification may be by e-mail, web page posting, area search, newspaper advertisement, public record search, publication search or other means to achieve maximum exposure to those qualified to respond.

(c) Responses which are received by the deadline (typically about ten days after issue) are copied and forwarded to the agency for its review.

7. Review of Proposals Real Property Services and the agency review the responses independently. Each eliminates from consideration the proposals which are unacceptable. The agency should consult Real Property Services as to appropriate criteria for eliminating a proposal/location. The agency documents by letter to Real Property Services

its opinion of each submission as to the reason it is deemed inappropriate or unsuitable. Reasons may include terms, conditions or locations that do not meet the criteria as included in the lease criteria form.

8. Inspection of Properties and Selection of Finalists After initial review of the proposals and preliminary elimination, the locations of potentially suitable proposals are inspected jointly by the agency and Real Property Services. The agency documents by letter to Real Property Services those proposals that are inappropriate or unsuitable to the agency. Of the remaining proposals, finalists are chosen jointly by the agency and Real Property Services. If the number of responses is sufficient, there should be two or three finalists. The agency documents by letter to Real Property Services the choice of finalists and its reasons for each choice. The agency must be willing and prepared to accept any one of these finalists.

9. Finalist Stage and Floor Plan The finalists are asked by Real Property Services to clarify any questions which have arisen about its proposal and to submit any additional information which would be needed to prepare a total cost analysis. At this time, it is important for the finalists and the agency to discuss in detail the needs of the agency. Once all questions are resolved, the finalists are asked to submit their "best and final offer" by a stipulated deadline (usually about 10 days).

In cases involving interior construction, it may be necessary for the agency to prepare preliminary one-line floor plans of each finalist property. This enables the finalists to estimate their cost (and thereafter their lease rates) and the agency to evaluate the functional efficiency of the properties. The floor plan normally includes not only wall division, but placement of electrical outlets, floor cover, wall cover, telephone lines and computer lines.

10. Cost Analysis During and immediately after the finalist stage, Real Property Services researches and collects any additional information which is necessary to perform a total cost analysis. Included in this are the costs of upfitting (construction), moving, telephone, computer lines, etc. If any considered locations involve the potential for state telephone lines, OIR will be asked for cost data which will be included. When all information is collected, analyses will be performed and, once complete, the agency is asked to review the results.

11. First and Second Choice A first-choice is made with input by both the agency and Real Property Services. The first place proposal will be one which is most appropriate in terms of agency needs for location, price, and special requirements. The agency and Real Property Services should also choose a second place proposal.

12. Final Negotiation Real Property Services, with agency involvement, will negotiate with the prospective landlord or his agent to secure the best and most proper terms and conditions. If any new construction is involved, negotiations will include details of plans and specifications. (Note: Total new construction or build-to-suit projects involve additional steps - see Complex Transactions, Part 4 of this document). If negotiations with the first proposer cannot be settled, then negotiations will begin with the second place proposer. If the floor area is 10,000 or more square feet, prior to the conclusion of final negotiations, confirmation of the amount of floor area to be leased is obtained from an architect or certified general appraiser.

13. Draft of Lease When all details are settled and agreed to by the agency, Real Property Services and the lessor, the lease document may be drafted. Standard state lease documents are to be used in all but special cases. For office buildings, Form 1-C is used with any property operating expense pass-throughs (expense stops to the landlord) and Form 2 is used if there are none.

14. Legal Advice If there are any changes to the standard form, the draft document should be approved by the legal department of the agency and then submitted to Real Property Services. SBPS may also require approval of General Services' legal staff.

15. Budget Approval Form A properly executed budget approval form (includes both a financial plan and verification of funds) and written CHE approval (if CHE agency) are required before final approval by Real Property Services. The budget approval form should be completed, signed by the agency budget analyst or financial officer and sent to Real Property Services (Leasing Unit) with a copy to the Board's Budget Office.

16. Signatures and Payment An approved lease document (standard state lease document or approved changes) may be signed by the lessor and the proper signatory of the agency. Landlord representative or agent signatures are not acceptable unless the representative has power of attorney. Real Property Services or the agency will prepare original documents for original signatures on forms provided by Real Property Services. The signatory approval of both the lessor and lessee is obtained and the original lease document is forwarded to Real Property Services for final approval and distribution. A lease payment authorization (LPA) reflecting the rent schedule is created and sent to the agency. The agency sends the landlord's rent invoice, the LPA and its voucher to the Comptroller General for payment. Colleges and universities process rent payments internally.

17. Budget and Control Board and JBRC Approval If the lease is major, that is it commits \$1 million or more over a five year period, approval of the Budget and Control Board and review by the Joint Bond Review Committee are required. The agency and Real Property Services should prepare a summary history giving the reasons for seeking new space, the source of funds, the dates and events of the RFP or solicitation, the reasons for the first choice proposal and the major facts regarding the new lease including: location, term (in years and months) of lease, annual rent amount(s), total rent amount over the rental period proposed, the annual rental rate(s) and the amount of floor area as expressed in rentable square feet.

18. Freedom of Information Lease negotiations are contract negotiations and are not subject to disclosure under the Freedom of Information Act until after consummation. Once consummated, all information is typically open to the public.

Part 3 - Major Leases and Lease/Purchases

(Major leases are defined as those which provide for payments of \$1 million or more over a five year time period; Lease/purchases are those leases which provide for or give an option for equity accrual).

1. All of the standard lease procedures which are not inappropriate are applicable.
2. Real Property Services may conduct a more detailed comparative analysis.

3. Review and approval of the Budget and Control Board and the Joint Bond Review Committee are required. The agency and Real Property Services should prepare a summary history giving the reasons for seeking new space, the source of funds, the dates and events of the RFP or solicitation, the reasons for the first choice proposal and the major facts regarding the new lease including: location, term (in years and months) of lease, annual rent amount(s), total rent amount over the rental period proposed, the annual rental rate(s) and the amount of floor area as expressed in rentable square feet.

Part 4 - Complex Transactions (Design and construct/renovate or lease purchase)

1. All of the standard and major lease procedures which are not inappropriate are applicable.
2. At the discretion of General Services, the process may require Requests for Proposals (RFP) or sealed or unsealed bids involving architectural/engineering (A/E), financial, contractual or other services to be evaluated by a panel selected by the agency and Real Property Services.

REQUEST FOR SPACE
FOR LEASE SOLICITATION for EXISTING PROPERTY

(do not use this form for expansion, consolidation or
design/build projects)

Date of Request _____

AGENCY

Agency Name _____
Main location street address _____
Main location mailing address if different _____
Agency real property leasing officer:
 Name _____
 Phone number _____

SECTION OR DIVISION OF AGENCY NEEDING SPACE

Name of section or division of agency needing property or space _____

Street Address _____

Mailing address if different _____

Head of section or division:

 Name _____

 Title _____

 Phone Number _____

Type of property needed (office, warehouse, classroom, library, parking, etc.)

Operating hours _____

Number of employees currently budgeted _____

Number of employees requested in next year's budget _____

Section or division real property leasing officer (contact for Real Property Services; if same as agency real property leasing officer as named above, so state).

 Name _____

 Phone number _____

PROPERTY BEING REPLACED (if none, so state and skip this section)

Street address _____

Size in square feet (state whether expressed as rentable or usable): _____

Why does this property no longer meet the agency's needs? _____

FUNDING

Source of funds for lease payments (explain if not appropriated)

State % _____
Federal % _____
Other % (name other source) _____

Funds are (check one) 1) Approved & available now _____ 2) Applied for _____

REQUEST AND DIRECTIVES

The agency hereby requests the Budget and Control Board, General Services Division, Real Property Services to investigate the marketplace through its lease acquisition process in order to meet its real property space needs. In order to coordinate with Real Property Services and to ensure the success of this project, the agency director makes the following appointments of its agency leaders.

Acquisition Authority Agency director appoints the following person as acquisition officer and contact with Real Property Services:

Name _____ Title _____

This person, with the assistance of Real Property Services, will be responsible for leading the agency through the real property leasing process and assuring agency compliance with code, regulations and procedures. Agency decisions regarding the choice of terms, conditions and location of the property will be made by this person.

Drafting and Floor Plan Authority Agency Director appoints the following person as draftsman of the agency floor plan to include all physical property needs including but not limited to, electrical, HVAC, lighting, plumbing, ceiling, interior wall placement, floor and wall cover, computer wiring plan, designation of areas (floor or wall) for carpet, vinyl, wallpaper or other coverings: [Note: The agency may elect to hire the architectural services of the General Services Division's Construction and Planning Unit. In this case, the person named here will coordinate with Construction and Planning.]

Name _____ Title _____

Interior Decoration Authority Agency Director appoints the following person for purposes of interior decoration for the agency. Responsibility and decision making authority includes the choice of interior fabrics, materials and colors, including floor and wall covers.

Name _____ Title _____

Signature Authority Agency director retains signature authority and shall be the only person with authority to contractually bind the agency in a lease of real property. The agency director hereby delegates signature authority to the following person and vests full authority to contractually bind the agency in a real property lease.

Name _____ Title _____

CERTIFICATION AND AFFIDAVIT OF AGENCY

1. The parties signed below acknowledge that he/she understands that information from proposers or bidders is held confidential under South Carolina Code Title 30 Chapter 4 (Freedom of Information Act) and that information of any one broker, owner, contractor or other party of a proposal is to be kept confidential and is not to be shared with any other party until award of lease contract or cancellation of the leasing process by either the agency or the General Services Division.

2. The parties acknowledge receipt of Regulation 19-447.1000, and certify that its agency director and its real property leasing officer and contact (as named above) have both read and understand Regulation 19-447.1000 in its entirety.

3. The parties understand that although the agency may specify preferred locations, General Services will determine the selected proposal and location. The parties understand that the agency must be willing to relocate to any one of the finalists' locations.

4. The parties understand and agree that no contact will be made between the agency and owners or brokers except by written consent of the General Services Division.

The parties hereby declare that, prior to this date, to his or her knowledge the agency director, assistant director(s), section manager(s) or real property leasing officer(s) have not had any contact with or had any discussions with any agent, broker, owner or owner's agent within the last six months except the following person(s) (if none, so state) _____.

The parties also understand and agree, that if any agent, broker, owner or owner's agent received information from the agency regarding the needs of the agency (which is not public knowledge), that person and the property he represents may be disqualified from participation in the agency's real property leasing process.

5. The parties understand and agree that, once a lease is approved by General Services, any change to plans or specifications must be approved by the General Services Division, and any change by the agency without the consent of General Services, may subject the party authorizing such change to personal monetarily liability.

Witness _____

Agency Director

Date: _____

Witness _____

Real Property Leasing Officer (as named above)

Date: _____

Witness _____

Head of Section or Division (as named above)

Date: _____

rqst_lse

SPACE ALLOCATION FORM

GENERAL SERVICES DIVISION, REAL PROPERTY SERVICES
1201 MAIN STREET, SUITE 410
COLUMBIA, SC 29201

This form is to accompany the agency request for office, warehouse, or other types of space. Please return completed form along with request to the above address.

AGENCY REQUESTING SPACE _____ AGENCY CODE _____

NAME OF DIVISION THAT WILL USE THE SPACE _____

CITY OR LOCATION OF SPACE _____ COUNTY/CODE _____

			AREA (Sq Ft)
			<u>REQUIRED</u>
1.	<u>STAFF REQUIREMENTS</u>		
	A. Management (Dir/Asst.Dir.) _____	Employees X 250 SF =	_____
	B. Professional _____	Employees X 160 SF =	_____
	C. Clerical _____	Employees X 110 SF =	_____
	TOTAL STAFF _____	REQUIRES(subtotal):	_____

2.	<u>NON-STAFF REQUIREMENTS</u>				
	A. File Cabinet _____	X	6 sq. ft. _____	=	_____
	B. Conference Rm. _____	X	20 sq. ft./person	=	_____
	C. Drafting Sect. _____	X	100 sq. ft.	=	_____
	D. Reception Area _____	X	200 sq. ft.	=	_____
	E. Printing/Duplication _____	X	Estimate	=	_____
	F. Copy Machine Space _____	X	Estimate	=	_____
	G. Library _____	X	Estimate	=	_____
	H. Work Table _____	X	15 sq. ft.	=	_____
	I. Tub Files _____	X	64 sq. ft.	=	_____
	J. Court Room _____	X	50 sq. ft.	=	_____
	K. Kitchenette _____	X	60 sq. ft.	=	_____
	L. Data Processing _____	X	Estimate	=	_____
	M. Studio _____	X	Estimate	=	_____
	N. Material Storage _____	X	Estimate	=	_____
	O. Radio Room _____	X	Estimate	=	_____
	P. Computer _____	X	Estimate	=	_____
	Q. Special Requirements _____	X	Estimate	=	_____
	(attach justification for special requirements)				
	R. Interior Circulation _____	X	Estimate	=	_____
	NON-STAFF REQUIREMENTS (subtotal):				_____

TOTAL SPACE REQUESTED (usable area) IN SQ FT: _____

I hereby certify that the above employees are those of the agency, will be located in the applied for space, and have not been used to justify other space requests or allocations.

Signature of Director: _____ Date: _____
leascom\saf.frm

REQUEST FOR LEASE PROPOSAL

ISSUE DATE: _____
STATE AGENCY NAME: _____
RETURN PROPOSALS TO: <SBPS Agent Name Here>
Real Property Services
1201 Main Street, Suite 410
Columbia, South Carolina 29201

PROPOSAL DUE: _____
FAX NUMBER: (803) 737-0689
TELEPHONE: (803) 737-1520

All proposals must be in writing and submitted **in duplicate**. Proposals may be for property which may or may not require building additions or improvements. Proposals may be for planned construction whereby proposer, on the date of issue, by deed, contract, or option, controls a specific site and has a site plan which depicts parking and building dimensions; however no build-to-suit or design/build proposals may be submitted. **Any proposal for planned construction must include a copy of the site deed, contract or option and the site plan.** All proposals must specify floor area in usable square feet, annual rent, rate per rentable square foot, and must list those services and utilities included in the annual rent.

LEASE CRITERIA

USABLE AREA (SF) _____ (approx) NUMBER EMPLOYEES: _____ COUNTY: _____

RATE/SQ FT: \$ 0.00 to \$ 0.00 (including) (excluding) operating expenses

PROPOSED USE: _____

PREFERRED LOCATION: _____

TERM OF LEASE (YEARS): _____

EXPECTED OCCUPANCY DATE: _____

PARKING REQUIREMENTS: (for # _____ employees) _____

SPECIAL NEEDS, REQUIRED: PROPERTY MUST BE BARRIER FREE AND HAZARD FREE

SPECIAL NEEDS, PREFERRED: _____

This "request for space" and the above "lease criteria" information are submitted to the Budget and Control Board's General Services Division as an accurate and full description of the needs and requirements of the division or section of the agency needing real property (space). There is no adequate State space available to meet our needs, and we ask General Services to use its resources, according to Regulation 19-447.1000, to investigate the real estate leasing market in the geographical area described above. Sufficient agency funds are available and are designated and encumbered for this purpose. Concept approval has been granted by CHE (if CHE agency).

Name (Authorized Requestor): _____

Title and Date: _____

f_criti.doc 12/05

BUDGET APPROVAL FORM

General Services Division, Real Property Services, Leasing Unit
1201 Main Street, Suite 410, Columbia, SC 29201
Phone 737-1520 Fax 737-0689

Lease or project number: _____

Building & Property Services agent: _____ DeLaine Duckworth _____ Gus Hoffmeyer
(please check one)

Agency name: _____

PROPERTY TO BE LEASED

Address of property to be leased: _____

Lease or renewal start date: _____ Floor area in square feet: _____

Use of property: _____ Office
(please check one) _____ Warehouse or Storage
_____ Other - please state: _____

FINANCIAL INFORMATION

Proposed source of funding	\$ _____	State appropriations
(annual amounts, lease year)	\$ _____	Federal funding
	\$ _____	Revenue or other
	\$ _____	Total rent, first year (1)

Financial Plan - Indicate impact on budget after first year:

Lease Term:	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>
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Annual rent:	_____	_____	_____
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(The agency will have responsibility for any increases over and above annual rent in property operating or other expenses relating to this lease. Examples: janitorial, custodial, utility, maintenance, insurance)

CERTIFICATION

The agency's budget analyst certifies that the above information has been reviewed and agency funds are encumbered for the purpose as stated.

(Signature)

(Printed or Typed Name)

Authorized Agency Budget Analyst

(Date) _____

Instructions: **Agency:** Complete, sign and send original to Real Property Services at address above. Send a copy to the State Budget Office, 1201 Main Street, Suite 870, Columbia, SC 29201. **Budget Office:** Please notify the Leasing Unit within three (3) days if agency funds are not adequate for lease payments. f_budget.doc 12/05

RECEIPT AND ACKNOWLEDGMENT OF LEASE REGULATION 19-447.1000

(This form is for those property owners and leasing brokers who wish to lease real property to State agencies.)

I have received a copy of Regulation 19-447.1000 and have read its contents in its entirety.

Also, I have given special attention to section A, subsection 1 (f) and subsections 4 (a) and (f). I understand that the Budget and Control Board's General Services Division (Real Property Services) is the single central broker for leasing for state agencies, and all negotiations are to be conducted through this office. I further understand that direct contact or negotiation with an agency without the written permission of Real Property Services will be cause for my disqualification for participation in an agency's acquisition process or solicitation. This prohibits obtaining information from an agency about its property needs or any other information about its specific property needs, including but not limited to physical data and lease terms and conditions. This restriction does not apply to dissemination of information which is public knowledge, such as a printed brochure or published rates.

Also, I have given special attention to section A, subsection 1 (b), subsections 1 (c) (3) and (4), subsection 1 (i), and subsection 4 (e). I understand that leases (including rates and annual rent amounts), unless specifically exempted, are subject to and conditioned upon the approval of the General Services Division and shall be of no force or effect unless the consent of such office is obtained.

Dated this _____ day of _____, 20____.

WITNESS

Signature of Owner or Agent

Typed or Printed Name

Phone (Voice)

Number: _____

Mailing Address: _____

FAX Number: _____

E-MAIL LIST

- ☐ Please enter my name and address to the State's leasing E-mail list.

E-Mail Address: _____

MAILING LIST

- ☐ Please enter my name and address and/or company name and address to the State's leasing mail list for the following counties (state "All" if you wish to receive all solicitations):

COUNTIES _____

Return to: Real Property Services, 1201 Main Street, Suite 410, Columbia, S.C. 29201

leascom\rec_ack.doc

TENANT IMPROVEMENTS TO LEASED PROPERTY

From time to time, an agency may need to make physical improvements to a property that it leases in order to accommodate additional staff or a new or different process. The agency should contact the Leasing Unit of General Services and, except for very minor changes, a member of the staff will assist the agency with arrangements with the landlord in order to achieve the improvements.

The Leasing staff will guide the agency through various phases which may include design and specifications, bidding, negotiating and drafting an agreement (lease amendment) with the landlord, contracting for services, and arranging for the method of payment. In most cases, the Landlord will contract for the improvements and the rental payment schedule is adjusted.

In some circumstances, with the approval of the landlord and of Real Property Services, an agency may contract for the improvements. In this event, the term of the rental schedule and agency options must match or exceed the useful life of the improvements. If the expected contract amount is over the agency's certification limit, the contract should be procured through the Board's Materials Management Office (MMO). In addition, the agency should contact the State Engineer's Office if any architectural or engineering work is required. [Note: The General Services Division's Construction and Planning Unit may be hired to guide such a project for the agency.]

Please call the Leasing staff at General Services' Real Property Services with any questions.

RECOMMENDED GENERAL PROCEDURE FOR LEASE-OUTS
STATE AGENCY LEASE OF STATE-OWNED PROPERTY

"LEASE-OUT"

Real Property Services
1201 Main Street, Suite 410, Columbia, SC
(803) 737-1520

A. INTRODUCTION

1. These recommended procedures apply to the leasing of state-owned real property to other parties which, for brevity, are referred to as "lease-outs."
2. Agencies having exemption for certain properties from leasing procedures by directive of the Budget and Control Board or by Regulation 19-447.1000 should merely send a copy of the executed lease document to the Real Property Services Section unless also exempt from reporting requirements. If there is a question about exempt status, the agency should contact Real Property Services.

B. GENERAL

1. For those properties and agencies which are not exempt, lease-outs require the approval of the Budget and Control Board's General Services Division (SC Code Sections 1-11-55 and 1-11-56 and Regulation 19-447.1000). All of the following procedures, if appropriate, should be used. However, at the discretion of General Services, the procedures may be changed in keeping with the best interest of the State, to accommodate individual circumstances.
2. Approval by the Board at a regularly scheduled meeting is currently required for most lease-outs. With assistance from the agency for supporting documentation, General Services will prepare an agenda item for presentation to the Board. The proposed lease and sufficient support documentation must be received in time for the item to be presented at all review meetings prior to the Board meeting. The review process usually begins approximately three to four weeks prior to the scheduled meeting.
3. For General Services (Real Property Services) to consider the approval of the lease of state-owned property, the agency must first secure all necessary approvals from those boards or commissions having authority over the agency in real property leasing matters except for the Budget and Control Board. For example, if the agency is a Higher Education agency, the approval of the Commission on Higher Education (CHE) or its staff may be needed.
4. A three phase approach is recommended. First is submission of the agency's project and proposed marketing process to General Services for conceptual approval. The second phase is implementation of the process and then consultation with Real Property Services regarding the choice of tenant and the lease terms and conditions. The third phase is submission of all documents for final approval and execution. Some projects may not require all parts of a phase. The agency should consult with Real Property Services if it feels that a different or shortened procedure or phase should be used.

C. STATEMENT OF PROJECT (CONCEPT) AND MARKETING PROCESS

1. The first phase may be initiated with a letter and supporting documents from the agency to Real Property Services to explain the project and the agency's proposed process to secure a tenant.

2. The marketing process should be designed to identify interested parties, to ensure fairness and sufficient competition among participants, to allow competent interested parties to participate and to ensure a fair rental or desired result to the state. If documents prepared for submittal to the agency's board or commission (or CHE if applicable) explain the project, these are usually sufficient when accompanied with a brief cover letter to Real Property Services. Please include a copy of the written approval of the board, commission or CHE.

3. The agency letter to Real Property Services and supporting documents should provide as much of the following as possible:

a. Brief description of the property and interest (fee, leasehold, etc.) to be leased. Should include property identification, and location, type of property (office, warehouse, house, dormitory, land, laboratory, etc.), size in square feet of any building improvements, and, if applicable, land area in acres.

b. Reason that agency does not presently need use of the property.

c. Reason that agency needs to retain ownership of the property including any planned future use, i.e. reason the property should not be offered to other agencies or classified as "surplus" property.

d. Concept statement and objective of the project - Will leasing of the property fulfill a need by staff, students, the general public, or clients of the agency? Will it help fulfill the mission of the agency? Is it a prudent fiscal proposal (lower costs or generate net income)?

e. Marketing plan - Either identify or list and explain the steps to be taken to identify parties who may be interested in leasing the property. List the media to be used to advertise and the expected length of time or frequency of advertisement. Examples are local newspaper or radio, national newspapers or radio, trade magazines, "SC Business Opportunities" publication, open listings, distribution of leaflets, documented phone solicitation, etc.

f. Explain the selection process which is to be used to select the prospective lessee.

g. Explain the steps to be taken to insure fairness to parties who may be interested in leasing this property. Will all parties receive the same information at the same time (plans, specifications, plats, concept letters, deadlines for response, revisions, etc.)?

D. EXECUTE THE MARKETING OR ADVERTISEMENT PROCESS

1. Once concept and marketing process approval is given by Real Property Services, the agency may execute its process. After completion, Real Property Services should be consulted regarding the choice of lessee and lease terms and conditions. After consultation, a draft copy (before signatures are obtained) of the proposed lease should be sent to Real Property Services for approval.

If not sent in an earlier phase, a letter with the following information should be sent to Real Property Services.

a. Briefly, the proposed terms of the transaction, including names and addresses of the parties, term (number of years and months of lease), consideration to be paid and renewal options. A draft lease, if prepared, may supply all or most of this information.

b. Support that the rental, either by rate or dollar amount, is a fair and competitive amount based on the area's rental market conditions or other considerations in determining rent. (May be supported by solicitations, local leasing agents' estimate of fair rent or rates, list of other rates and dollar amounts currently being paid for similar properties in the general area, etc.).

c. Intended use by prospective lessee and whether this use is permitted by current zoning, restrictions and easements.

d. Any other pertinent information which may give insight or may have been a factor in this lease-out and its process.

E. SUBMISSION OF DOCUMENTS AND EXECUTION

1. Original leases along with any other supporting documents which may not have not been previously sent (plat, plans, specifications etc.) are submitted to General Services' Real Property Services. The agency should send a letter on agency letterhead to General Services requesting Board approval and submit a completed "Lease Summary and Approval Application" form as provided by General Services.

2. Approval by the Board at a regularly scheduled meeting is currently required for most lease-outs. With assistance from the agency for supporting documentation, General Services will prepare an agenda item for presentation to the Board. The proposed lease and sufficient support documentation must be received in time for the item to be presented at all review meetings prior to the Board meeting. The review process usually begins approximately three to four weeks prior to the scheduled meeting.

3. Once all matters are cleared, the appropriate signatures of the lessor and lessee are obtained. One original lease is retained by Real Property Services and the others are distributed to lessor and lessee.

F. LEASE FORMAT

Lease Document: After concept or project approval, the lease may be drafted by the agency. The document or form used may be relatively simple but must protect the interests of the agency and the state. Other previously executed lease agreements are available through Real Property Services to the agency as a guide.

When drafting the lease, the agency's legal staff should review and approve the document. The agency signatory must have contractual authority for the agency and the signatory for the lessee must have binding authority. An original document with signatures of both parties is sent to General Services' Real Property Services.

RECOMMENDED PROCEDURE FOR GS STATE BUILDINGS
STATE AGENCY LEASE AND OCCUPANCY OF GS STATE BUILDINGS

General Services Division
Real Property Services
1201 Main Street, Suite 410, Columbia, SC 29201
(803) 737-1520

A. INTRODUCTION and GENERAL INFORMATION

1. These recommended procedures apply to the occupancy and leasing of state-owned real property in the care and control of the Budget and Control Board's General Services Division (GSD). Specifically, it applies to any changes in floor space or in the terms and conditions of occupancy. Examples include the taking of additional space, the giving up or relinquishing of space, changing the division of property operating expenses, changing the timing of rent payments or adding or removing walls.
2. General Service's Real Property Services (Leasing Unit) has the responsibility for reviewing agency's space needs, whether it be to expand or contract, and for making arrangements to accomplish an expansion or contraction for the agency. These arrangements usually include an agreement as to the obligations of the agency ("tenant") and General Services ("landlord"). General Services' Facilities Management has the responsibility for maintenance of General Services' State buildings. This includes painting and carpet cleaning to prepare space for occupancy. More intensive physical improvements and changes are arranged by the Construction and Planning (C&P) staff. If there is a question, the agency is encouraged to contact Real Property Services at 737-1520.
3. The following outlines acceptable processes for the agency to secure additional state space (expansion), to relinquish space (contraction) and to achieve other changes such as adding or removing walls, or changing the division of obligations including the division of property operating expenses, or other terms and conditions of the lease.

B. EXPANSION

1. The agency contacts Real Property Services' Leasing Unit to ascertain the availability of state owned space.
2. A member of the Leasing staff will meet with the agency to understand the needs of the agency, including space needs (space allocation standards) and timing.
3. The agency measures their need for space, including the number of staff and furniture, fixtures or material to be housed.
4. The Leasing staff makes arrangements to show the property to the agency, and, if available, obtains current floor plans from the Construction and Planning (C&P) unit of General Services.
5. Agency and GSD determine the floor plan needed and improvements needed; C&P makes revisions to the floor plan and computes the new floor area occupied by the tenant agency.

6. A lease agreement is drafted by the Leasing Unit and sent to the tenant agency for signature.
7. Requests for painting and carpet cleaning are submitted to Facilities Management. If any improvements or renovations are needed beyond scheduled painting and carpet cleaning, a description of these changes is submitted to Construction and Planning for a cost estimate and for code and fire safety compliance. C&P will provide a cost estimate to the Leasing Unit and will handle contracting for services once the lease is consummated.
8. Upon receipt of the cost estimate, the Leasing Unit will present the lease to the Director of General Services for acceptance or adjustment.
9. Once the lease is consummated and received by Real Property Services, the Leasing Unit will distribute copies to all parties including C&P and, if involved, Facilities Management. If any improvements or renovations are agreed to, Facilities Management or C&P will initiate and complete. Lease information is entered into the state building database for purposes of rent invoicing and planning.
10. At the appropriate time, a request for invoicing goes from Real Property Services (Leasing Unit) to B&CB Internal Operations. From there, an invoice is sent to the tenant agency.

C. RELINQUISH or CONTRACTION OF SPACE

1. The agency contacts Real Property Services' Leasing Unit and outlines the space it plans to give up or relinquish and estimates the effective date of vacancy. This may be achieved by letter or a "recision" form (obtain from Real Property Services).
2. Agency and GSD determine the floor plan and improvements needed; C&P makes revisions to the floor plan and computes the new floor area occupied by the tenant agency.
3. A lease amendment, reflecting the floor area adjustment, is prepared by the Leasing Unit and sent to the agency for signature.
4. Requests for painting and carpet cleaning are submitted to Facilities Management. If any improvements or renovations are needed beyond scheduled painting and carpet cleaning, a description of these changes is submitted to Construction and Planning for a cost estimate and for code and fire safety compliance. C&P will provide a cost estimate to the Leasing Unit and will handle contracting for services once the lease is consummated.
5. Upon receipt of the cost estimate, the Leasing Unit presents the lease amendment to the Director of General Services for acceptance or adjustment.
6. Once the lease is consummated and received by Real Property Services, the Leasing Unit will distribute copies to all parties including C&P and, if involved, Facilities Management. If any improvements or renovations are agreed to, Facilities Management or C&P will initiate and complete. Lease information is entered into the state building database for purposes of rent invoicing and planning.
7. A credit request is sent by the Leasing Unit to B&CB Internal Operations to return any unearned rent. The information is entered into the state building database for purposes of future rent invoicing and planning.

D. OTHER CHANGES - AMENDMENTS TO LEASE

1. Amendments may be made to a lease in order to change the division of property operating expenses, to add or remove walls or to make other changes to the terms and conditions of the lease. Physical changes which occur on a regular or a scheduled basis, such as painting, carpet cleaning, may be achieved through Facilities Management without contacting Real Property Services or other sections of General Services.
2. The agency contacts Real Property Services' Leasing Unit and outlines the changes it wishes to make. Usually a leasing agent from Real Property Services will arrange a meeting with the agency and inspect the space involved.
3. If the change involves the determination of floor area, Real Property Services will measure and calculate the area or arrange for Construction and Planning to calculate the area. If the change involves other parties, Real Property Services will make arrangements.
4. Once an agreement is reached, an amendment is drafted for the agency's signature.
5. The amendment, upon its return, is sent to the Director of General Services for signature or adjustment.
6. Once consummated, the lease amendment is distributed to all parties.
7. If a credit is due, a credit request is sent to Internal Operations. If additional rent is due, a request for invoicing is sent to Internal Operations. The information is entered into the state building database for purposes of future rent invoicing and planning.

E. LEASE FORMAT

Lease Document: A standard form is used by the General Services Division. A copy of this lease may be obtained from Real Property Services at 1201 Main Street, Suite 410.

This lease contains the following provisions.

1. Date of lease document.
2. Begin and end dates of lease term.
3. Full names and addresses of parties.
4. Property identification.
5. Rent, amount, delivery, due and past due dates.
6. Allowable use of the property.
7. Assignment and subletting.
8. Tenant covenants including conduct in premises, compliance with law, notice of events, and access by the agency and state.
9. Procedure and rent payment in the event of casualty, partial or whole.
10. Insurance provisions.
11. Casualty provisions.
12. Termination of lease and surrender of property.
13. Minor repairs; responsibility and procedure.

14. Agreement as to payment of building services and operating expenses including janitorial, utilities, and maintenance.
15. Tenant covenants regarding environmental issues.
16. Signatures of both parties with witnesses; dates of signatures; Typed legible names and titles.

The agency signatory must have contractual authority for the agency. An original document with signatures is to be sent to Real Property Services.

SC CODE SECTION 1-11-55

Section 1-11-55. (1) "Governmental Body" means a state government department, commission, council, board, bureau, committee, institution, college, university, technical school, legislative body, agency, government corporation, or other establishment or official of the executive, judicial, or legislative branches of this State. Governmental body excludes the General Assembly, Legislative Council, the Office of Legislative Printing and Information Technology Resources, and all local political subdivisions such as counties, municipalities, school districts, or public service or special purpose districts.

(2) The Budget and Control Board is hereby designated as the single central broker for the leasing of real property for governmental bodies. No governmental body shall enter into any lease agreement or renew any existing lease except in accordance with the provisions of this section.

(3) When any governmental body needs to acquire real property for its operations or any part thereof and state-owned property is not available, it shall notify the Office of General Services of its requirement on rental request forms prepared by the office. Such forms shall indicate the amount and location of space desired, the purpose for which it shall be used, the proposed date of occupancy and such other information as General Services may require. Upon receipt of any such request, General Services shall conduct an investigation of available rental space which would adequately meet the governmental body's requirements, including specific locations which may be suggested and preferred by the governmental body concerned. When suitable space has been located which the governmental body and the office agree meets necessary requirements and standards for state leasing as prescribed in procedures of the board as provided for in subsection (5) of this section, General Services shall give its written approval to the governmental body to enter into a lease agreement. All proposed lease renewals shall be submitted to General Services by the time specified by General Services.

(4) The board shall adopt procedures to be used for governmental bodies to apply for rental space, for acquiring leased space, and for leasing state-owned space to nonstate lessees.

(5) Any participant in a property transaction proposed to be entered who maintains that a procedure provided for in this section has not been properly followed, may request review of the transaction by the Director of the Office of General Services or his designee.

HISTORY: Added by 1997 Act No. 153, § 2, eff June 13, 1997.

SC CODE SECTION 1-11-56

Section 1-11-56. The State Budget and Control Board, in an effort to ensure that funds authorized and appropriated for rent are used in the most efficient manner, is directed to develop a program to manage the leasing of all public and private space of state agencies. The board's regulations, upon General Assembly approval, shall include procedures for:

- (1) assessing and evaluating agency needs, including the authority to require agency justification for any request to lease public or private space;
- (2) establishing standards for the quality and quantity of space to be leased by a requesting agency;
- (3) devising and requiring the use of a standard lease form (approved by the Attorney General) with provisions which assert and protect the state's prerogatives including, but not limited to, a right of cancellation in the event of:
 - (a) a nonappropriation for the renting agency,
 - (b) a dissolution of the agency, and
 - (c) the availability of public space in substitution for private space being leased by the agency;
- (4) rejecting an agency's request for additional space or space at a specific location, or both;
- (5) directing agencies to be located in public space, when available, before private space can be leased;
- (6) requiring the agency to submit a multi-year financial plan for review by the board's budget office with copies sent to Ways and Means Committee and Senate Finance committee, before any new lease for space is entered into; and requiring prior review by the Joint Bond Review Committee and the requirement of Budget and Control Board approval before the adoption of any new lease that commits more than one million dollars in a five-year period; and
- (7) requiring prior review by the Joint Bond Review Committee and the requirement of Budget and Control Board approval before the adoption of any new lease that commits more than one million dollars in a five-year period.

HISTORY: Added by 1997 Act No. 153, § 2, eff June 13, 1997.

R.19-447.1000 LEASING OF REAL PROPERTY

A. LEASE OF NON STATE OWNED REAL PROPERTY

No governmental body shall contract for the lease, rental, or use of non-State-owned real property without approval of the Office of General Services, except as specified in subsection C. Requests shall be directed to the Office of General Services. The Office of General Services shall negotiate or approve the terms of all leases of non-State-owned real property unless the governmental body has been exempted.

1. GENERAL REGULATIONS

- (a) The Office of General Services shall be accountable for the procurement of leased real property for governmental bodies in accordance with the regulations promulgated by the board.
- (b) All leases shall require the written approval of the Office of General Services, except when such lease is exempt from approval by the Budget and Control Board.
- (c) Before approving any lease, Office of General Services shall:
 - (1) assure that all appropriate approvals have been obtained.
 - (2) verify that adequate funds exist for the lease payments;
 - (3) verify that lease payments represent no more than fair market rental;
 - (4) verify that upfitting costs represent no more than current market costs;
 - (5) verify that a multi-year financial plan has been submitted by the requesting agency for review by the Budget and Control Board's budget office.
- (d) All requests for leased real property by governmental bodies and agencies shall be submitted to the Office of General Services on a "Request for Space Form" provided by General Services.
 - (1) This form shall include, but not be limited to:
 - (a) The purpose for which the space will be used.
 - (b) Any special requirements or needs with written justification (computer rooms, etc.).
 - (c) Parking requirements and justification.
 - (d) The general location or area desired.
 - (e) A multi-year financial plan for review by the Board's budget office.
 - (2) The amount of office space desired shall be computed and justified using the standards specified in Code Section 1-11-55.
 - (3) Other types of space (warehouse, laboratory, etc.) shall require a written letter of justification from the requesting agency or governmental body and shall include documentation of market standards for use of this type space. The Office of General Services shall be accountable for investigating the existing space or any other information given in the justification.
 - (4) The "Request for Space Form" or any other document requesting space or justifying the need for space shall be certified by the Director of the requesting agency or governmental body.

- (e) An agency or governmental body desiring to renew an existing lease is responsible for notifying the Office of General Services in writing of its intention to do so at least 60 days before the renewal deadline as stated in the lease. Upon approval by appropriate boards and the Office of General Services, the governmental body or agency shall notify the Lessor that it has elected to exercise its right of renewal pursuant to the lease. The Office of General Services may send each a renewal request form and a reminder notice well in advance of these deadlines.
- (f) Under no circumstances will the requesting governmental body or state agency contact or negotiate lease terms with any real estate agency, broker, builder, owner, or representative in reference to space needs without the prior written consent of the Office of General Services.
- (g) The Office of General Services will begin investigation of available rental space within ten (10) working days after receiving the "Request for Space Form".
- (h) When processing requests for space, the Office of General Services will first determine whether appropriate state-owned or state-leased space is available before exploring commercial space alternatives. If such space is available, the Office of General Services will direct the requesting agency or governmental body to occupy said space. If state-owned or state-leased space is unavailable or inappropriate, the Office of General Services shall begin a solicitation process to secure proposals for commercial space from as many qualified developers and/or brokers as is practicable.
- (i) Rental rates will be determined by the Office of General Services for all leases by use of standard acceptable market rent analysis methods.

2. TYPES OF LEASE TRANSACTIONS

All state leases will be categorized as one of the following five types:

- (a) Exempt Leases - Those leases exempted in accordance with subsection C or otherwise exempted by the Budget and Control Board.
- (b) Standard Leases - All leases which commit less than \$1 million in a five year period and which do not involve equity accrual.
- (c) Major Leases - Any lease which commits \$1 million or more in a five year period but which is otherwise standard in all respects.
- (d) Lease/Purchases - All lease transactions which include clauses providing for equity accrual.
- (e) Other Leases - All leases which are not encompassed by the first four categories. At its discretion, the Office of General Services may place any proposed lease transaction in this category if it involves complex issues or methodologies which warrant special handling.

3. EXEMPT LEASES

All exempt leases will be administered in accordance with regulations and procedures outlined in subsection C or Budget and Control Board directives.

4. STANDARD LEASES

- (a) The Office of General Services will be responsible for managing all aspects of soliciting lease proposals from commercial entities. In all solicitations, the Office of General Services is required to assure that equitable competition occurs in the broadest market practicable.
- (b) The Office of General Services will review all proposals from prospective Lessors with the agency or governmental body. The Office of General Services will recommend the proposal which offers the most cost effective terms and conditions to the agency or governmental body after satisfying subjective criteria such as parking, location requirements, special needs, etc. If the agency accepts the recommendation, General Services will make the selection and begin negotiations to finalize the lease transaction.
- (c) If the agency or governmental body cannot accept the Office of General Services' recommendation, the dispute shall be referred to the Budget and Control Board, which will make the final determination.
- (d) Evaluation criteria shall include total cost (including rental payments, upfitting costs, escalations, additional rents, operating, and all other costs) and location. Other subjective criteria such as parking and other special needs may be included. Total cost shall be given the highest weight of any single factor.
- (e) Before making a recommendation, the Office of General Services shall verify that:
 - (1) all prior approvals have been obtained;
 - (2) adequate funds exist for the lease payments;
 - (3) lease payments are no more than fair market rental; and
 - (4) upfitting costs are no more than reasonable market costs.
- (f) The Office of General Services may reject the agency's request for additional space and/or space at a specific location.

5. MAJOR LEASES

- (a) All regulations and procedures for standard leases will apply to all major leases.
- (b) All major leases must be reviewed by the Joint Bond Review Committee and approved by the Budget and Control Board before a final lease becomes effective.

6. LEASE/PURCHASES

All regulations and procedures for major leases will apply to lease/purchase transactions.

7. OTHER LEASES

- (a) At its discretion, the Office of General Services may place any proposed lease transaction in this category if it involves complex issues or methodologies which warrant special handling.

- (b) The Office of General Services shall determine which of the above regulations are applicable to any special lease situation and may adopt additional procedures to meet special needs on a case by case basis.

8. STANDARD LEASE DOCUMENTS

- (a) The Office of General Services will be responsible for drafting and updating the state standard lease document.
- (b) The state standard lease document will be used in all lease negotiations unless a substitute document is approved in advance by the Office of General Services.
- (c) The state lease document will incorporate cancellation provisions including a right to cancel in the event of a (a) non-appropriation of funds for the renting agency, (b) dissolution of the agency and (c) the availability of public space in substitution for private space being leased by the agency.

B. LEASE OF STATE OWNED REAL PROPERTY

No governmental body shall contract with any commercial entity or other governmental body for the lease, rental, or use of State-owned real property whether it be titled in the name of the State of South Carolina or any governmental body, without approval of the Office of General Services, except as specified in subsection C. Requests shall be directed to the Office of General Services. The Office of General Services shall negotiate or approve the terms of all leases of State-owned real property unless the governmental body has been exempted.

C. EXEMPTIONS

The Budget and Control Board may exempt governmental bodies from leasing State owned and non-State owned real property through the leasing procedure herein required provided, however, that annual reports be filed with the Office of General Services, prior to July 1 of each year. Annual reports shall contain copies of all existing leases of State owned and non-State-owned real property. The Budget and Control Board may limit or withdraw any exemptions provided for in this Regulation.

LEASING POLICIES OF THE COMMISSION ON HIGHER EDUCATION

The leasing policies of the South Carolina Commission on Higher Education are addressed in the Commission's August, 1998 edition of "Facilities Policies and Procedures Manual." The exempt level under Commission policy is up to \$25,000 in a single fiscal year. "Each lease, including renewals, with a term of three or more months in a single fiscal year and at a total annual cost of \$25,000 or more must be approved by the Commission. Leases from \$25,000 up to \$100,000 may be approved by Commission staff. All leases over \$100,000 are subject to action by the full Commission." Note that lease purchases are classified as permanent improvement projects (page 3.1) and, as such, are subject to all permanent improvement policies of the Commission. For a copy of the manual or questions about the policies of the Commission, please contact the staff of the Commission at 1333 Main Street, Columbia, South Carolina 29201.

The General Services Division recommends that a CHE agency contact the Commission at the onset of the leasing process so that all aspects of the leasing project are acceptable. The agency may wish to notify the Commission of its intent by sending a copy of its General Services request to the Commission. Before approving a CHE agency lease, General Services must assure that Commission approval has been obtained (Regulation 19-447.1000).